HONOURABLE SRI G.S.SINGHVI

THE CHIEF JUSTICE

-

AND

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HONOURABLE SRI JUSTICE

R.SUBHASH REDDY

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WRIT APPEAL Nos. 2436 AND 2437 OF 2005

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W.A.No. 2436 of 2005

Between:

Bhogaraju Venkata Krishna Rao

… Appellant

And

Sri Seetharamaswamy Temple,

Jangareddygudem represented by its

Manager and others.

… Respondents.

::JUDGMENT::

Counsel for appellant : Sri K.Sarvabhouma Rao

Counsel for Respondent No.1 : Mrs. N.Indrani

Counsel for respondents 2&3 : G.P. for Endowments.

----- January, 2006

Per R.Subhash Reddy, J.

These two writ appeals are filed under Clause 15 of Letters Patent, aggrieved by the common order dated 14-11-2005 passed by the learned Single Judge in writ petition Nos. 24269 and 24279 of 2005.

As similar questions of fact and law arise for consideration, both these appeals stand disposed of by this by common judgment.

The appellants herein are in possession of piece of land admeasuring 29 feet x 12 feet each, belonging to Sree Seetharamaswamy temple, Jangareddygudem. The Assistant Commissioner, Endowments Department, Eluru, has submitted proposals to the second respondent herein, stating that the appellants are encroachers as they are in occupation unauthorisedly, without paying damages for the use and occupation thereof, after expiry of lease granted to them, and, requested to evict them by passing appropriate orders under Section 83 of the Andhra Pradesh

Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short "the Act"). Basing on the said proposal sent by the Assistant Commissioner, Endowments Department, cases were registered in O.A.Nos. 111 and 113 of 1999, by the second respondent, and, show-cause notices were issued to the appellants herein, to which, they have responded and filed their explanations. In the said original applications, on behalf of the temple, oral and documentary evidence was adduced. The appellants herein have not adduced any evidence. The primary authority, i.e. Deputy Commissioner of Endowments, after conducting necessary enquiry, has passed orders, declaring the appellants herein as encroachers and ordered for their removal and instructed the Assistant Commissioner, Endowments, to implement the said orders as per Section 83 of the Act. As against the said orders of eviction, the appellants have filed revision petitions before the 3rd respondent, Regional Joint Commissioner, who confirmed the orders of the Deputy Commissioner, by passing separate orders dated 20-8-2005 in R.P.Nos. 68 and 69 of 2005. The said orders were challenged by the appellants in two writ petitions and the same were dismissed by the learned single judge by common order dated 14-11-2005. Hence these two writ appeals.

In these appeals, it is submitted by the learned counsel for the appellants, that the appellants had originally filed suits in O.S.Nos. 21 and 57 of 1998 on the file of the I Additional Junior Civil Judge, Kovvur and interim orders were passed in their faour, directing not to disturb their possession over the property in question. It is submitted by the learned Counsel, that subsequently there was a settlement before the Lok Adalat on 17-7-2004 and rent was enhanced from Rs.2300/- to Rs.4657/- per year, and in view of the said settlement, the suits were dismissed in terms of compromise entered into; as such, it is submitted by the learned Counsel, that the appellants cannot be termed as encroachers within the meaning of Section 83 of the Act, so as to remove them from the alleged encroachments.

What is deducible from the above said contention is that the petition schedule properties were given on lease by the Endowments Department to the appellants and the lease was finally extended up to 30-6-1990. Even thereafter, the appellants have continued in possession, without any extension of lease. It is not the case of the appellants, that there is any such extension beyond June, 1990. The matters

relating to grant of lease of the properties belonging to the Endowments Department and fixation of rents are governed by the provisions under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 and the rules framed thereunder. There is clear bar of jurisdiction to entertain the said suits under the above said Act in view of the provision under Section 151 of the Act. Section 151 of the Act reads as under:

> "151. Bar of Jurisdiction:- No suit or other legal proceeding in respect of administration or management of an institution or endowment or any other matters of dispute for determining or deciding for which provision is made in this Act shall be instituted in any Court of Law except under and in conformity with the provisions of this Act."

In view of the provision under Section 151 of the Act, it is clear that no suit or other legal proceedings can be entertained in respect of the disputes, for which, provision has been made in the Act itself. In view of the said provision, the submission of the learned counsel for the appellants, that they filed suits and there was settlement before the Lok Adalat, and, as such, they cannot be termed as encroachers, cannot be accepted. There is no approval for such settlement by any competent authority. In absence of any lease beyond June, 1990, with approval by the competent authority, the appellants cannot be continued in possession by virtue o f the alleged settlement, which itself was without any authority of law and jurisdiction. In that view of the matter, the appellants are to be treated as encroachers within the meaning of Section 151 of the Act for the purpose of their eviction.

In our opinion, the learned Single was justified in dismissing the writ petitions, by recording the finding that the petitioners do not have valid lease and the order passed by the Lok Adalat cannot bind the competent authority under the Act. We do not find any valid ground to interfere with the order of the learned Single Judge

Both the writ appeals are devoid of merits and, are accordingly dismissed. No order as to costs.

R.SUBHASHS REDDY, J.

G.S.SINGHVI, C.J.

Date: -- --2006.

Msnr.